

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Buford Communications I, L.P. d/b/a)	
Alliance Communications Network)	File No. EB-02-TS-225
)	
Operator of Cables Systems in:)	
)	
Greenbrier, Arkansas)	
Greensferry, Arkansas)	
Perryville, Arkansas)	
Plumerville, Arkansas)	
Marshall, Arkansas)	
Lakeview, Arkansas)	
Lee County, Arkansas)	
Coahoma, Mississippi)	
Crowder, Mississippi)	
Cherokee County, Texas)	
)	
Request for Waiver of Section 11.11(a) of the)	
Commission's Rules)	

ORDER

Adopted: October 9, 2002**Released: October 10, 2002**

By the Chief, Technical and Public Safety Division, Enforcement Bureau:

1. In this *Order*, we grant Buford Communications I, L.P. ("Buford") d/b/a Alliance Communications Network temporary waivers of Section 11.11(a) of the Commission's Rules ("Rules") for the 10 above-captioned cable television systems. Specifically, we grant a six-month waiver for the Greenbrier, Arkansas cable system and a 36-month waiver for the Greensferry, Arkansas; Perryville, Arkansas; Plumerville, Arkansas; Marshall, Arkansas; Lakeview, Arkansas; Lee County, Arkansas; Coahoma, Mississippi; Crowder Mississippi; and Cherokee County, Texas cable systems. Section 11.11(a) requires cable systems serving fewer than 5,000 subscribers from a headend to either provide national level Emergency Alert System ("EAS") messages on all programmed channels or install EAS equipment and provide a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel by October 1, 2002.¹

2. The Cable Act of 1992 added new Section 624(g) to the Communications Act of 1934 ("Act"), which requires that cable systems be capable of providing EAS alerts to their subscribers.² In

¹ 47 C.F.R. § 11.11(a).

² Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, § 16(b), 106 Stat. 1460, 1490 (1992). Section 624(g) provides that "each cable operator shall comply with such standards as the

1994, the Commission adopted rules requiring cable systems to participate in EAS.³ In 1997, the Commission amended the EAS rules to provide financial relief for small cable systems.⁴ The Commission declined to exempt small cable systems from the EAS requirements, concluding that such an exemption would be inconsistent with the statutory mandate of Section 624(g).⁵ However, the Commission extended the deadline for cable systems serving fewer than 10,000 subscribers to begin complying with the EAS rules to October 1, 2002, and provided cable systems serving fewer than 5,000 subscribers the option of either providing national level EAS messages on all programmed channels or installing EAS equipment and providing a video interrupt and audio alert on all programmed channels and EAS audio and video messages on at least one programmed channel.⁶ In addition, the Commission stated that it would grant waivers of the EAS rules to small cable systems on a case-by-case basis upon a showing of financial hardship.⁷ The Commission indicated that waiver requests must contain at least the following information: (1) justification for the waiver, with reference to the particular rule sections for which a waiver is sought; (2) information about the financial status of the requesting entity, such as a balance sheet and income statement for the two previous years (audited, if possible); (3) the number of other entities that serve the requesting entity's coverage area and that have or are expected to install EAS equipment; and (4) the likelihood (such as proximity or frequency) of hazardous risks to the requesting entity's audience.⁸

3. Buford filed a request for a permanent waiver or a five-year waiver of Section 11.11(a) for the 10 captioned cable systems on May 29, 2002. In support of its waiver request, Buford states that each of these cable systems serve small, rural communities with less than 5,000 subscribers. Buford states that the Greenbrier, Arkansas system serves 2,520 subscribers and each of the other nine captioned cable systems serves between 96 and 886 subscribers. Based on price quotes from EAS equipment manufacturers, Buford estimates that it would cost approximately \$8,500 to install EAS equipment at each of these systems. Buford asserts that this cost will impose a substantial financial hardship on it and provides its financial statements for 2000 and 2001 in support of this assertion. In addition, Buford submits that its subscribers will continue to have ready access to national EAS information from other sources, including its cable systems. Buford further submits that its subscribers will have access to EAS information through over-the-air reception of broadcast television and radio stations.

Commission shall prescribe to ensure that viewers of video programming on cable systems are afforded the same emergency information as is afforded by the emergency broadcasting system pursuant to Commission regulations” 47 U.S.C. § 544(g).

³ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Report and Order and Further Notice of Proposed Rule Making*, FO Docket Nos. 91-171/91-301, 10 FCC Rcd 1786 (1994) (“*First Report and Order*”), reconsideration granted in part, denied in part, 10 FCC Rcd 11494 (1995).

⁴ *Amendment of Part 73, Subpart G, of the Commission's Rules Regarding the Emergency Broadcast System, Second Report and Order*, FO Docket Nos. 91-171/91-301, 12 FCC Rcd 15503 (1997) (“*Second Report and Order*”).

⁵ *Id.* at 15512-13.

⁶ *Id.* at 15516-15518.

⁷ *Id.* at 15513.

⁸ *Id.* at 15513, n. 59.

4. Based upon our review of the financial data and other information submitted by Buford, we decline to grant Buford a permanent waiver of Section 11.11(a). However, we conclude that a temporary, six-month waiver of Section 11.11(a) for the Greenbrier, Arkansas cable system, and a temporary, 36-month waiver of Section 11.11(a) for each of the other nine captioned cable systems are warranted.⁹ In particular, we find that the \$8,500 cost of EAS equipment for each of these small cable systems could impose a financial hardship on Buford Cable.

5. We note that the Commission recently amended the EAS rules to permit cable systems serving fewer than 5,000 subscribers to install FCC-certified decoder-only units, rather than both encoders and decoders, if such a device becomes available.¹⁰ Based on comments from equipment manufacturers, we anticipate that such a decoder-only system could result in significant cost savings to small cable systems.¹¹

6. Accordingly, **IT IS ORDERED** that, pursuant to Sections 0.111, 0.204(b) and 0.311 of the Rules,¹² Buford Communications I, L.P. d/b/a Alliance Communications Network, **IS GRANTED** a waiver of Section 11.11(a) of the Rules until April 1, 2003 for the cable television system in Greenbrier, Arkansas and **IS GRANTED** a waiver of Section 11.11(a) of the Rules until October 1, 2005 for the cable television systems in Greersferry, Arkansas; Perryville, Arkansas; Plumerville, Arkansas; Marshall, Arkansas; Lakeview, Arkansas; Lee County, Arkansas; Coahoma, Mississippi; Crowder, Mississippi; and Cherokee County, Texas.

7. **IT IS FURTHER ORDERED** that Buford Communications I, L.P. d/b/a Alliance Communications Network, place a copy of this waiver in its system files.

8. **IT IS FURTHER ORDERED** that a copy of this *Order* shall be sent by Certified Mail Return Receipt Requested to counsel for Buford Communications I, L.P. d/b/a Alliance Communications Network, Timothy P. Tobin, Esq., COLE, RAYWID & BRAVERMAN, LLP, 1919 Pennsylvania Avenue, NW, Suite 200, Washington, DC 20006.

FEDERAL COMMUNICATIONS COMMISSION

Joseph P. Casey
Chief, Technical and Public Safety Division
Enforcement Bureau

⁹ The six-month waiver will extend from October 1, 2002, until April 1, 2003 and the 36-month waivers will extend from October 1, 2002 until October 1, 2005. We clarify that the waivers we are granting also encompass the EAS testing and monitoring requirements.

¹⁰ *Amendment of Part 11 of the Commission's Rules Regarding the Emergency Alert System*, EB Docket 01-66, FCC 02-64 at ¶ 71 (released February 26, 2002).

¹¹ One manufacturer estimated that an EAS decoder-only system can reduce the cost by 64% over what a cable operator would spend for an encoder/decoder unit. *Id.* at ¶ 70.

¹² 47 C.F.R. §§ 0.111, 0.204(b) and 0.311.